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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.
COMPANY PETITION NO. 1181 OF 2002

M/s. Ramchandra and Co. ...Petitioner

Vs.

Are Educational Equipment Pvt. Ltd. ...Respondents.

Mr. Rajesh More for the petitioner.

Mr. U.P. Warunjikar for the respondents.

CORAM : ANOOP V. MOHTA,J.

DATED : 31st August, 2007

ORAL JUDGMENT:-

1. The petitioner has invoked provisions of Sections 433 and 434 of the Companies Act-1956, as the respondent company though served with the statutory notice, unable to make the payment. There was no reply filed and or denied the liability to pay the amount of Rs.81,940/- with interest thereon. As the respondent company though purchased goods and materials from the petitioners since last many years unable to pay the bills regularly and therefore on the date of statutory notice remained the liability as referred above.

2. By order dated 29th January, 2004, after considering the material placed on record, including submissions of both the parties, this Court has

accepted the acknowledgement of its liability to the tune of Rs.81,940/- as claimed and therefore, admitted the petition. The petitioner has complied all the formalities. The affidavit of publication dated 7th September, 2004 is also part of the record.

3. The learned counsel appearing for the respondents in view of the affidavit in reply dated 13th January, 2004 submitted that the company is facing financial difficulties and therefore, the liabilities have been increased from all sorts. The financial or labour problem of the company in no way affect the provisions of the companies Act in view of the fact that the respondent company unable to pay the amount due and payable as recorded above. There is no dispute that the claim is within limitation.

4. The defence, therefore, as raised in no way sufficient to discard the prayers as made by the petitioner.

5. Resultantly, the petition is allowed in terms of prayer clause (a) and (b). However, this order will take effect only after six weeks. In the meantime, the parties are at liberty to settle the matter.

(ANOOP V. MOHTA, J.)